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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/644,759	08/21/2003	Masahiko Yamada	Q77053	7296
23373 7590 08/07/2008 SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037				
EXAMINER MARIAM, DANIEL G				
ART UNIT		PAPER NUMBER		
2624				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/644,759

**Applicant(s)**

YAMADA, MASAHIKO

**Examiner**

DANIEL G. MARIAM

**Art Unit**

2624

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 July 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5, 8-10, 12, 15-17, 19 and 25-27 is/are rejected.
- 7) ☒ Claim(s) 4, 6, 7, 11, 13, 14, 18 and 20-24 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 4/30/08
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

***Response to Arguments***

1. Applicant's arguments, see pages 2-5 of the remarks, filed July 21, 2008, with respect to the rejections of claims 1-3, 5-10, 8, 12-17, 19-21, and 25-27 under 35 U.S.C. 102 and 103 have been fully considered and are found to be persuasive. Therefore, the rejections have been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Stubler, et al. (6,804,684) which will be discussed in the rejection below.

***Examiner's Note***

2. Examiner has cited particular columns and line numbers or figures in the references as applied to the claims below for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-3, 5, 8-10, 12, 15-17, 19, and 25-27 are rejected under 35 U.S.C. 102(e) as being anticipated by Stubler, et al. (6,804,684).

With regard to claim 1, Stubler discloses a similarity judgment method for judging a similarity value between images related to or attached with characteristic information, i.e., color, texture, event: date, time, position, etc, representing a characteristic of each of objects therein (See for example, Figs. 2-5)9, the similarity judgment method comprising the steps of: calculating a similarity value between the objects, i.e., metadata, included in the images, based on the characteristic information; calculating the similarity value between the images, based on the similarity value between the objects (See for example, col. 6, line 7 – col. 7, line 30). Although Stubler, et al. does not specifically says calculating the similarity value between the images based on the similarity value between the objects, it would have been obvious to an ordinary artisan since the claim does not preclude intermediate processing, i.e., grouping and/or clustering, that grouping/clustering the acquired images by using metadata similarity, and evaluating the presence of any similarities between the clusters and groups and the images within the database or between the labeled regions of the clusters and groups and labeled regions of images within the database on the basis of either one of the following similarity calculation event similarity, global similarity or region similarity does indeed requires the calculation of similarity value between the images. Thus, each of the requirements of claim 1 is met.

With regard to claim 2, the similarity judgment method according to Claim 1, wherein the characteristic information is included in metadata of image data representing the images (See for example, col. 6, lines 31-36).

With regard to claim 3, the similarity judgment method according to Claim 1, wherein the characteristic information refers to at least one of items comprising a candidate of a name, i.e., caption or label, of each of the objects, a reliability value representing likelihood of each of

the objects having the name, position information representing a position of each of the objects in a corresponding one of the images, size information representing a size of each of the objects, and a statistic value regarding characteristic quantities of each of the objects (See for example, col. 8, line 18 - col. 9, line 40).

With regard to claim 5, the similarity judgment method according to Claim 1, further comprising the step of storing the images by classifying the images according to the similarity value between the images (See for example, item 140, in Fig. 2).

Claim 8 is rejected the same as claim 1 except claim 8 is directed to an apparatus claim. Thus, argument analogous to that presented above for claim 1 is applicable to claim 8. Additionally, applicant's attention is further invited to the structure shown in Figure 1.

Claims 9, 10, and 12 are rejected the same as claims 2, 3, and 5 respectively, except claims 9, 10, and 12 are directed to apparatus claims. Thus, arguments analogous to those presented above for claims 2, 3, and 5 are respectively applicable to claims 9, 10, and 12.

Claim 15 is rejected the same as claim 8. Thus, argument similar to that presented above for claim 8 is applicable to claim 15. As to a computer-readable medium including a program (See for example, item 20, in Fig. 1; and col. 4, lines 53-63).

Claims 16, 17, and 19 are rejected the same as claims 9, 10, and 12 respectively. Thus, arguments analogous to those presented above for claims 9, 10, and 12 are respectively applicable to claims 16, 17, and 19.

With regard to claim 25, the method of Claim 1, wherein the calculation of similarity value between images is for plural images stored in a database, and wherein at least two of the stored plural images, i.e., group of images, are compared against each other (See for example, item 130, in Fig. 2).

With regard to claim 26, the method of claim 1, the calculation of similarity value between the objects is between objects appearing in plural images, said plural images being stored in a database (See for example, item 160, in Fig. 2).

With regard to claim 27, the method of claim 26, wherein calculation of similarity values between objects includes similarity value calculations for multiple objects occurring in each of the plural images, and the similarity value between images is calculated between the plural images (See for example, Figs. 2-5, and the associated text).

***Allowable Subject Matter***

5. Claims 4, 6-7, 11, 13-14, 18, and 20-24, objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US Patent Application Publication no. 2002/0168117.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL G. MARIAM whose telephone number is 571-272-7394. The examiner can normally be reached on M-F (7:00-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, BRIAN P. WERNER can be reached on 571-272-7401. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/DANIEL G MARIAM/  
Primary Examiner, Art Unit 2624